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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,463	10/24/2003	Patricia Ruzakowski Athey	1320D2	2526

7590 08/08/2007
PPG INDUSTRIES, INC.
Intellectual Property Department
One PPG Place
Pittsburgh, PA 15272

EXAMINER

BLACKWELL, GWENDOLYN ANNETTE

ART UNIT	PAPER NUMBER
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1775

MAIL DATE	DELIVERY MODE
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08/08/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/693,463

Applicant(s)

ATHEY ET AL.

Examiner

Gwendolyn Blackwell

Art Unit

1775

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent no. 5,693,134, Stephens.

Regarding claims 1 and 3

Stephens discloses a pigment comprised of a substrate with a coating of $\text{Cu}_x\text{Mn}_{3-x}\text{O}_4$ (x-1.4 or 1.5), (column 8, lines 20-24, claim 1). The substrate can be made of glass, (column 8, lines 35-37, claim 6). Stephens does not specifically disclose that the coating has a blue color in transmission once placed on a glass substrate.

Because Stephens disclose a substrate of glass with a coating of $\text{Cu}_x\text{Mn}_{3-x}\text{O}_4$ (x-1.4 or 1.5), (column 8, lines 20-24, 35-37, claim 1, claim 6), which overlaps the range as set forth by Applicant, it would be expected that the glass substrate would have a blue light in transmission.

Response to Arguments

3. Applicant's arguments filed May 10, 2007 have been fully considered but they are not persuasive.

Art Unit: 1775

4. Applicant contends that the prior art pigment is used in paints to hide the underlying structure and that as an interference pigment, the pigment would exhibit color via reflection, not transmission and (2).

5. With regards to Applicant's contention, Stephens specifically discloses coating a substrate with a coating of $\text{Cu}_x\text{Mn}_{3-x}\text{O}_4$ ($x=1.4$ or 1.5), which can have a blue color in transmission, (column 6, lines 32-37 and Table 1). Stephens also specifically discloses that the coating can be used on a glass substrate as demonstrated in claim 6, (column 8, lines 35-37). Because the coating composition meets all of the requirements of Applicant's coating composition and the coating is formed on a glass substrate, as also required by Applicant, it would be expected that the pigment of Stephens would exhibit a blue color in transmission absent an objective showing to the contrary.

In addition, Applicant has not limited the coated article to having any particular structure nor has Applicant provided a thickness or any other defining characteristic of the glass. It is the position of the Examiner that the prior art teaches a glass substrate with a coating thereon that meets the compositional limitations of the presently claimed invention. The fact that Applicant's claims are drawn to a coated article is simply not enough to define the subject matter over the prior art of record. The comparison is not between the claimed coated article and a paint containing the prior art pigment, but to the coated article and the pigment, its ultimate intended use notwithstanding. There is no evidence of record to indicate that the pigment would not exhibit a blue color in transmission.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

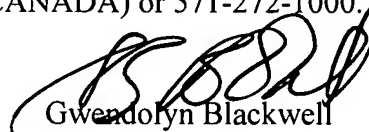
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Blackwell whose telephone number is (571) 272-1533. The examiner can normally be reached on Monday - Thursday; 6:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer McNeil can be reached on (571) 272-1540. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1775

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gwendolyn Blackwell
Examiner
Art Unit 1775